

1 SUPERIOR COURT OF THE STATE OF CALIFORNIA
2 FOR THE COUNTY OF SANTA BARBARA
3
4

5 Coordination Proceeding Special Title,)
(Rule 1550(b)))
6)
7 In re Tobacco Cases II)
_____) JCCP No.

4042

8)
The People of the State of California,)
9 et al. v. Brown & Williamson Tobacco)
Corp., et al. (SF No. 996781))
10)
And)
11)
People of the State of California,)
12 et al. v. Philip Morris Inc., et al.)
(LA No. BC 194217))
13 _____)
14
15
16
17

18 Deposition of LORRAINE WALDAU, Volume II,
taken
19 on behalf of Defendants, at 8:50 a.m., Tuesday,
20 April 11, 2000, at 411 East Carrillo Street,
Santa
21 Barbara, California, before MARTHA A. ADAMS,
22 CSR 10345, Certified Shorthand Reporter for the
State
23 of California.
24
25
26
27
28

130

1 APPEARANCES_OF_COUNSEL

2

3 FOR DEFENDANTS:

4 ALLEN, MATKINS, LECK, GAMBLE &

MALLORY

5 By: Henry Lerner, Esq.
H. Christian L'Orange, Esq.
333 Bush Street
Suite 1700
6 San Francisco, California 94104
(415) 837-1515
7
8
9
10
11
12
13

14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

131

1 I_N_D_E_X

2 - - - - -

PAGE 3 WITNESS EXAMINATION

4 LORRAINE WALDAU (BY MR. LERNER)

133

5

6

7

PAGE 8 DEFENDANTS' _EXHIBITS

9 818 - June 25, 1999 Letter

133

10 819 - Alcohol, Tobacco, Other Drug and Violence
11 Programs in California Schools: 1998/99
Annual Report

133

12 820A - 820M - 1998, 1999 Fiscal Year Reports

133

13 821 - August 10, 1998 Letter

133

14 822A - 822M - TUPE Reports

133

15 823 - November 17, 1998 Letter

133

16 824 - TUPE Program Administrative Funds
1996-97 Annual Report

133

17

18

19

20

21

22

23

24

25

26

27

28

2000 1 SANTA BARBARA, CALIFORNIA, TUESDAY, APRIL 11,
2 8:50 A.M.
3
4 (Defendants' Exhibits 818 through 824
5 were marked for identification.)
6
7 LORRAINE WALDAU,
8 having been first duly sworn by the Certified
9 Shorthand Reporter, testified as follows:
10
11 EXAMINATION
12
13 BY MR. LERNER:
14 Q. Mrs. Waldau, when we left off last
week,
15 we were discussing various curriculum materials
that
16 you identified have been used in the -- in Santa
17 Barbara County public schools. I'm going to
continue
18 the review this morning of curriculum materials.
19 But before getting into that, I
wanted to
20 inquire whether you have ever prepared any
reports for
21 the State of California concerning -- summarizing
the
22 tobacco education -- prevention education in
Santa
23 Barbara County public schools.
24 A. No. The only report that I submit
is
25 a -- a one-page fiscal report for the county
office
26 administrative funds for those programs and a
one-page
27 kind of summary of my own duties, not -- not
something
28 that summarizes prevention education in Santa
Barbara

1 County.
2 Q. To whom do you submit the one-page
fiscal
3 report specifically?
4 A. To California Department of
Education,
5 the Healthy Kids Program Office.
6 Q. Is that an annual report?
7 A. Yes.
8 Q. What year did you begin submitting
that
9 report to the Healthy Kids Office?
10 A. 1990.
11 Q. When's the last time you submitted
such a
12 report?

13 A. We would have submitted a report
November
14 for '98, '99.
15 Q. What information is provided in the
16 one-page annual fiscal report that goes to the
Healthy
17 Kids Office?
18 A. Let's see. There's two questions we
19 answer. Trying to remember. It's such a
non-report
20 that I can't --
21 Q. Does it inquire as to the number of
22 students who receive tobacco prevention
education?
23 A. No. See, I would have no way of
knowing
24 that.
25 Q. So does it inquire as to the amount
of
26 funds that are expended from your report?
27 A. There's a one-page fiscal report,
yes.
28 Q. What do you mean by fiscal report?

134

1 A. Money for the administrative funds
coming
2 in and going out for that year.
3 Q. And is that for your office or for
the
4 school districts in the county?
5 A. Just for my administrative funds.
Each
6 school district files their own report with the
7 California Department of Education. And I don't
--
8 I'm not involved in filing those reports for
them.
9 Q. When you say its own report, do you
mean
10 a fiscal report?
11 A. District report. The narrative
report is
12 one piece of it which I gave you copies of. And
the
13 fiscal report is included in their Consolidated
14 Application Part 2.
15 Q. Are you familiar with the fiscal
report
16 submitted by the individual school districts to
the
17 office -- Department of Education?
18 A. What do you mean am I familiar with?
19 Certainly I'm familiar with the consolidated
20 application.
21 Q. And are you familiar with the fiscal
22 report consolidated application section
information
23 that's called for?
24 A. Yes.
25 Q. What is the information that's
called for

26 by the fiscal report consolidated application?
27 A. It's a standard budget. Starting
with
28 the current entitlement, any carry-over funds.
So it

135

1 shows the total resources available for that
year, and
2 then it shows the total expenditures by category
3 starting with 1,000s which is employees; 2,000,
4 classified; 3,000, benefits. Standard report
like you

5 have there.
6 Q. Are you referring to a file that
we've
7 looked at?

8 A. I'm seeing what I have with me. I
have
9 one of my old fiscal reports with me.

10 Q. Mind if I see that?

11 A. Sure.

12 MR. LERNER: Let's go off the record.

13 (Discussion off the record.)

14 BY MR. LERNER:

15 Q. Exhibit 824 is a document called
"Tobacco

16 Use Prevention Education, TUPE, Program
Administrative

17 Funds 1996-97 Annual Report." And is this the
annual
18 report that you prepared for 1996, '97 for the
19 Department of Education?

20 A. Our fiscal office at the County
Education

21 Office prepared it for me.

22 Q. So this shows that the total
expenditures

23 for '96, '97 from your office were \$21,277.72?

24 A. For tobacco, yes.

25 Q. All right. And that's Dr. -- you
26 recognize Dr. Smidt's --

27 A. Correct.

28 Q. -- signature?

136

1 A. Uh-huh.

2 Q. And this is a document that you've
been

3 submitting -- a form of this document has been
4 submitted annually to the state since 1990?

5 A. Correct.

6 Q. Do you have a file containing copies
of
7 these reports?

8 A. I just have the last couple years of
9 things. Since I work out of my home as a

consultant,
10 I don't keep extensive files. This would be the
11 oldest one I've got around.

12 Q. Can you provide me with copies of

the
13 additional reports you have?
14 A. I can check with our fiscal office
and
15 see if they have a copy. Otherwise, they would
be --
16 I don't know how long CDE keeps their copies of
17 things.
18 Q. Okay. Turning back to the
curriculum,
19 I'd like to ask you to identify Exhibit 194 which
is a
20 document called "Project Alert, a Drug Prevention
21 Program for Middle Grades." Can you tell me what
that
22 document is?
23 A. It's one of the examples of
curriculums
24 which I try to let people know is a resource, let
25 districts know that it's a resource. So when I
take
26 curriculums to different meetings, it was one
that I
27 might have taken a few times especially during
28 whenever this one came out. Earlier '90s. It's
an

137

1 old version of Project Alert.
2 Q. Is Project Alert a curriculum that
is
3 used or has been used in the Santa Barbara County
4 public schools?
5 A. I know it's been used by at least a
6 couple of districts out in the Valley. I don't
know
7 how extensively.
8 Q. And was it used for tobacco
prevention
9 education purposes?
10 A. Well, it would be used for drug,
alcohol
11 and tobacco. It's a very broad curriculum.
12 Q. Which districts use this Project
Alert
13 curriculum?
14 A. I believe that Los Olivos School
District
15 may have used it and possibly Buellton. And I
don't
16 know who else has used it.
17 Q. And for what period of time was it
used
18 by Los Olivos District?
19 A. I think there was a training in
about
20 1998. And I think they used it in '98, '99. I
don't
21 know if they're using it this year or not.
22 Q. Do you know what grades it was used
for?
23 A. It's a seventh grade curriculum with

some
24 supplement lessons at eighth grade. And so I
assume
25 that's where they would use it, but I don't know
for
26 sure.
27 Q. And do you know when this curriculum
was
28 used by Buellton?

138

1 A. No. I think they used it, but I'm
not
2 even sure -- positive that they used it. I
believe
3 they were involved in the training. They went to
the
4 training, but that's all I know.
5 Q. Now, you say this is an old version
of
6 Project Alert. Is there a subsequent version?
7 A. Yeah. There's a revised curriculum,
you
8 know, updated.
9 Q. Page 184 of the Project Alert
curriculum
10 treats the subject of secondhand smoke?
11 A. Yes.
12 Q. And are you aware whether that page
of
13 the Project Alert is used in the Los Olivos
School
14 District curriculum?
15 A. No, I'm not. I have no direct
knowledge
16 at -- with what kind of fidelity districts
implement
17 any of the curriculums. I just don't work at
that
18 level.
19 Q. So you have general knowledge as to
which
20 curriculums are used?
21 A. I have general knowledge as to what
22 basically I have provided as resources in terms
of the
23 Resource Center and Public Health's things that
people
24 can borrow. And the only information I ever see
on
25 how they're implemented is what general
information
26 they put in their final reports.
27 Q. Okay. And by final reports what are
you
28 referring to?

139

1 A. I'm referring to the documents that
you
2 have for the last two years that I gave you

copies of.

3 Q. Okay. We'll discuss those a bit
later.
4 But you're referring to the annual reports that
the

5 individual districts submit to the State
Department of
6 Education?

7 A. Correct.

8 Q. You say you have -- you mentioned
last
9 week that you have taught tobacco prevention
education

10 yourself in the Los Olivos District?

11 A. Correct.

12 Q. And what grades do you -- have you
13 taught?

14 A. Grades 4 through 8.

15 Q. When have you taught tobacco
prevention
16 education in the Los Olivos District?

17 A. I go in once or twice a year.

18 Q. What happens on one of these
occasions by
19 way of your tobacco education -- tobacco
prevention
20 lessons?

21 A. I go in and usually have about 45
minutes

22 with the kids and put together my lessons from
the

23 different curriculum resources I have and what I
feel

24 is a good lesson since I only get them once or
twice

25 and can provide some supplemental lessons for the
26 teachers.

27 Q. How many children do you see at one
-- at
28 one -- on one day?

140

1 A. I usually do three classes on one
day.

2 Example, fourth, fifth and sixth grade in a
morning

3 for about 45 minutes each. And this year with
Los

4 Olivos I'll have about an hour and 15 minutes
with the

5 seventh grade and hour and 15 minutes with the
eighth
6 graders.

7 Q. Now, when you say you usually do
three

8 classes, does that mean you see all fourth
graders at
9 one time?

10 A. There's only one class of fourth
graders.

11 Q. I see. And one of fifth and one of
12 sixth?

13 A. Uh-huh.
14 Q. So it's a small district?
15 A. One-school school district.
16 Q. Okay. What curriculum -- how many
years
17 have you been doing this for Los Olivos District?
18 A. Four or five.
19 Q. When did you -- during this past --
this
20 current school year that began last fall, when
did you
21 first go in --
22 A. To Los Olivos?
23 Q. Yes.
24 A. March 28th I did one class of
fourth,
25 fifth and sixth. That's it so far.
26 Q. Have you seen the seventh and eighth
27 graders this year?
28 A. Not yet.

141

1 Q. Is there anything scheduled?
2 A. They're scheduled on April 26th.
And the
3 second session of four, five and six is scheduled
for
4 the 25th of April.
5 Q. And are you scheduled to have a
second
6 session with the seventh and eighth graders?
7 A. No.
8 Q. What did you cover during the -- did
you
9 cover anything related to environmental tobacco
smoke
10 during the classes you held for the fourth, fifth
and
11 sixth grades on March 28th?
12 A. No. It's just not one of the major
goals
13 which is to prevent uptake of tobacco.
14 Q. And has it ever been something that
has
15 been a subject of your classes with fourth, fifth
and
16 sixth grades?
17 A. Actually, it was this year in Cuyama
with
18 the fourth grade.
19 Q. Cuyama is the second district where
you
20 teach tobacco prevention education?
21 A. Correct, uh-huh.
22 Q. What's your --
23 A. Schedule?
24 Q. Strike that. Yeah. What's your
schedule
25 for tobacco prevention education at Cuyama
District?
26 A. My piece which is not -- certainly
not

27 the whole piece. My consulting with them this
year 28 was on March 1st. I did fourth, fifth and sixth

142

1 grade. March 7th I did fourth, fifth and sixth
grade. 2 And March 29th I did an hour and a half with
seventh 3 grade and an hour and a half with eighth grade.
4 And this is not just tobacco. It's
Safe 5 and Drug-Free Schools and tobacco.
6 Q. If we can return for a moment to the
7 classes in the Los Olivos District, what
curriculum 8 materials did you use for the fourth, fifth and
sixth 9 graders?
10 A. I used materials from Get Real About
11 Tobacco and Here's Looking at You 2000 and Get
Real 12 About Violence.
13 MR. LERNER: I'm sorry. Could you read
back 14 the answer.
15 (Record read.)
16 BY MR. LERNER:
17 Q. What materials did you use -- are
you 18 planning to use in the Los Olivos District this
year 19 for Grades 7 and 8?
20 A. I'm planning to use Get Real About
21 Tobacco, Here's Looking at You 2000, a video on
-- 22 called "Tobacco: Truth or Dare." Let's see.
Let me 23 think for a second. A tape from CADFY which is
the 24 Californians for -- C-A-D-F-Y -- Drug-Free Youth
that 25 shows the effects on one person of marijuana
smoking 26 and a film on methamphetamines and also some
materials 27 from Get Real About Violence.
28 Q. Have you used any tobacco prevention

143

1 education videos in the Los Olivos District?
2 A. Yes.
3 Q. Which videos have you used in the
Los 4 Olivos District?
5 A. This year or over the past? I have
no 6 idea what -- I can't name them over the past.
7 Q. Sure. How about this year?
8 A. Okay. With fourth, fifth and sixth?
9 Fifth and sixth I didn't show a video. What did

I do
10 in fourth? Let's see. It's hard to keep the two
11 districts since they're so close. Just from
memory, I
12 can't remember whether I showed a video in fourth
13 grade in Los Olivos or whether that's the second
visit
14 in Cuyama that I showed a video. Just can't --
15 without --
16 Q. What curriculum materials did you
use in
17 Cuyama for Grades 4, 5 and 6?
18 A. Same ones that I mentioned for Los
19 Olivos: Get Real About Tobacco, Here's Looking
at You
20 2000, Get Real About Violence, the video
"Smoking:
21 Truth or Dare," and the video on the -- from
CADFY on
22 the effects of smoking marijuana.
23 (At this time Mr. L'Orange
24 exited the deposition room.)
25 BY MR. LERNER:
26 Q. You mentioned that you did cover ETS
with
27 fourth graders at Cuyama?
28 A. Right. That -- that is out of --

144

1 Q. How was that covered?
2 MR. LERNER: Let's go off the record.
3 (Discussion off the record.)
4 THE WITNESS: It was a booklet called
5 "Quitters." I gave -- I did not bring you the
whole
6 booklet. But what I did was I Xeroxed for you
the
7 cover page and the description of this book. And
it
8 was with my curriculum materials that I brought
at the
9 last deposition.
10 It's out of the Here's Looking at
You
11 2000 curriculum Grade 4. And it is a story about
12 three young people who have had prevention
lessons at
13 school and have been taught that ETS is harmful
and go
14 home to talk to different family members about
their
15 own smoking behavior.
16 BY MR. LERNER:
17 Q. Have you used that portion of the
18 curriculum which pertains to ETS in prior years?
19 A. No. I just came across it this
year.
20 Q. What prompted you to use it this
year?
21 A. I was previewing the fourth grade
Here's
22 Looking at You 2000 kit which is the first time

I've
some of
for
you
23 been able to do that. And so I was trying out
24 their materials, and that was one of the lessons
25 fourth grade.
26 Q. Do you recall whether in prior years
27 used any lessons pertaining to ETS in classes you
28 taught in the Los Olivos District?

145

since I
1 A. Not any lessons from curriculum
2 only have one shot -- one or two shots with each
3 class. That's not my priority. But I would have
4 included several of the handouts that we already
5 talked about at the last deposition as resource
6 materials when -- for teachers along the way.

7 Q. Are you saying that when you go in
to
8 teach a special class on tobacco prevention you
leave
9 resource materials with the teacher?

10 A. Whatever happens to be the current,
you
11 know, things that we're getting in. And then I
think
12 it was around '94, '95, there were a few handouts
that
13 we identified that were specifically on the
effects of
14 ETS. And so I made sure that I handed those out
when
15 they were current.

16 Q. Do your lessons include written
materials

17 that are distributed to students?
18 (At this time Mr. L'Orange
19 reentered the deposition room.)
20 THE WITNESS: Sometimes. It depends on

how the
21 lesson is -- you know, it's a ready-set-go is
kind of
22 how they refer to them type of lessons. So if
23 they're -- some of them have a worksheet. Some
of
24 them have a parent newsletter, those kind of
things.
25 And if it -- if it's going to fit into the time
frame
26 that the district gives me, then I use them.
27 Some lessons are more of a -- oh.

Not
28 drama. But like one of them I did was kind of a

146

1 little mystery play. And one was like a mock
trial
2 type of thing. So there wasn't really any
written,

3 you know, sheets that went with it.
4 BY MR. LERNER:
5 Q. So these are type of interactive
lessons?
6 A. That's what I'm looking for, yeah.
Role
7 playing type of things.
8 Q. Now, when we were here last week,
you
9 identified Exhibit 176 as -- which is a document
10 called "Tobacco-Free Middle School" as infusion
11 lessons that are --
12 A. Correct.
13 Q. -- provided. Do you know whether
those
14 type of lessons pertaining to tobacco prevention
are
15 used at the Los Olivos District?
16 A. I don't believe they are.
17 Q. And do you know whether the infusion
18 lessons are used at the Cuyama District?
19 A. Currently, no.
20 Q. So are you aware whether there was
other
21 tobacco prevention lessons in the Los Olivos
District
22 apart from the ones you've taught?
23 A. Like I mentioned earlier, last year
I
24 know that the seventh and eighth grade teacher
did
25 Project Alert.
26 Q. And specifically the tobacco
prevention
27 portions of Project Alert?
28 A. That, I would have no idea.

147

1 Q. And at Cuyama, do you know whether
there
2 are other -- tobacco prevention lessons given
other
3 than the lessons you've taught?
4 A. I leave supplemental lessons with
the
5 teachers. And, for example, I did a update at
the
6 beginning of school this year for the teachers at
7 Cuyama and brought different resource materials,
8 showed them some videos that they could borrow.
And
9 then I have no idea what they do with that
10 information.
11 Q. Okay. Other than what's in the
written
12 reports?
13 A. Correct.
14 Q. Okay. I'd like to hand you Exhibit
195
15 which is called "California Community Resource
Guide
16 Prenatal Substance Use Prevention Education" and

ask
17 you if you can identify that document.
18 A. Yes. I can.
19 Q. Okay. What is that?
20 A. Part of the materials that were
developed
21 to help districts implement Healthy Generations
22 Healthy Learners which is a prenatal substance
use
23 prevention education program for Grades 7 through
12.
24 The Sacramento County of Ed. Office developed --
I
25 don't know -- most or many of these materials.
And
26 they put together a resource guide on this topic
as
27 part of the greater curriculum.
28 Q. Now, this document was one of the
records

148

1 you produced. What do you do with this
particular
2 document in the course of your work as the TUPE
3 coordinator?
4 A. Nothing.
5 Q. Have you given copies to districts?
6 A. When I was -- when these became
available
7 which -- I'd have to look up the dates on them
for me
8 when they were made available --
9 Q. This one has a copyright on the
third
10 page of September 1993.
11 A. Okay. So probably '93 to '95 when I
did
12 some consulting for the Healthy Kids -- Region 8
13 Healthy Kids Office out of Ventura. We
distributed
14 this whole curriculum to all districts that had
7th
15 through 12th grade students. It was made
available,
16 and there was a couple of trainings that they
were
17 invited to to come and get this information as
well as
18 local resource information.
19 Q. So this information was distributed
to
20 districts through trainings and other means back
in
21 1993, '94?
22 A. Correct.
23 Q. And is it currently distributed?
24 A. No.
25 Q. And why is that? Is it already
there?
26 A. Like I mentioned earlier, this was a
27 program that was mandated by the state

legislature to

28 be used once in junior high and once in high
school.

149

1 Not these materials, per se, but prenatal
substance

2 use prevention education. These were just
low-cost

3 materials that were developed for their use if
they so

4 choose.

5 And so they were distributed at that
6 time. And there are order sheets who districts

may or

7 may not be using them. I mean districts could

still

8 order these materials, but I have not heard of

anybody

9 using them, per se, recently. They may be.

10 Q. Now I'm going to ask you to identify

11 Exhibit --

12 A. Right.

13 Q. -- 196 which is called "Great

14 Expectations."

15 A. Great Expectations, yes, is a

magazine

16 with some teacher's guide and lesson plans that

is

17 generally used in -- was generally available for

the

18 teen parenting programs throughout the county.

And

19 during the time that Healthy Kids -- or I mean --

20 excuse me -- Healthy Generations Healthy Learners

was

21 implemented, we kind of pulled this in as a

resource

22 to be given out to a broader general population

as

23 well with the Healthy Generations materials.

24 Q. When you say this is a magazine, is

it a

25 magazine to which your office subscribes?

26 A. No. It's -- the curriculum itself

is in

27 the format of a magazine to appeal to young

people

28 like as a, you know, high gloss.

150

1 Q. And where was this Great
Expectations

2 curriculum used specifically in the county?

3 A. I don't know.

4 Q. Was it used in any high schools?

5 A. I don't know. All I can do is offer

6 materials. And it was part of the trainings that

7 had -- it was part of the resources available at

the

8 trainings we did for Healthy Generations.

asked 9 Q. I see. When did -- I'm sorry if I
10 you this before. But when did you do the Healthy
11 Generations training?
12 A. Sometime probably between 1993 and
'95.
13 I believe is one of your exhibits or one of the
14 materials that I left. There was a agenda for
one of
15 those trainings.
16 Q. Have you used this or have you made
this
17 Great Expectations available as a resource since
the
18 Healthy Generations trainings you conducted
between
19 1993 and 1995?
20 A. No.
21 Q. So it's not something you're
currently
22 using or making available?
23 A. No, huh-uh.
24 Q. Where did you obtain the Great
25 Expectations resource materials?
26 A. I don't really remember. It could
have
27 been passed on. I could have picked them up at a
Kids
28 conference. Could have been through the Healthy

151

got 1 Regional Office. I have no -- no idea where we
2 it.
3 MR. LERNER: Let's go off the record a
second.
4 (Discussion off the record.)
5 MR. LERNER: We can go back on.
6 Q. Now, having looked at the original,
7 you've seen that this -- the Exhibit 196 contains
a
8 number of different items that were located in
the
9 same binder. Is that correct?
10 A. Correct.
11 Q. And other items included a
memorandum
12 from Cheryl Raney dated March 6th, 1995?
13 A. Yes. Now I remember why she sent
this.
14 Q. What is the significance of that
15 memorandum?
16 A. Basically she sent us some materials
that
17 were specifically designed for the parenting teen
18 population but felt they were appropriate for the
19 general population that was to receive Healthy
20 Generations Healthy Learners program. So she
sent
21 them as a resource for us to share with
districts.
22 Q. So she says in this memo it is part

of a
and
teen
that
Expectations
23 statewide project, classroom sets of 35 magazines
24 one teacher's guide have been shipped directly to
25 parent programs in public schools throughout
26 California. Does that refresh your recollection
27 each school received a set of these Great
28 materials?

152

would be
which
have
and
in
1 A. It wouldn't be each school. It
2 each school that has a teen parenting program
3 usually there's maybe -- I don't know how many we
4 in the county. But there's one in Santa Barbara,
5 there's one in Lompoc. And I believe there's one
6 Santa Maria.

Lompoc?
7 Q. Santa Barbara, Santa Maria and
8 A. I believe that's where three of them
are.

they're
10 not located in --
11 Q. Are they in high schools?
12 A. Lompoc's, for example, is not at the
13 high -- either of the high school sites. It's at

a
14 different site where the continuation school is.

So
15 I'm not sure where -- where the other sites are.

I
16 don't really work with the parenting teen
programs.

17 Q. Now, the binder contained and is
18 contained also in Exhibit 196 a -- an EPA
brochure
19 pertaining to secondhand smoke. Why was this
document
20 found in that Great Expectations binder?

21 A. One of the -- two of the key points
for
22 Healthy Generations and Healthy Learners and
obviously
23 for the parenting teen materials would be on an
24 expectant mother's use of drugs, alcohol, tobacco
or
25 other high risk behaviors as well as those people
26 around her using high risk behaviors such as
smoking.

27 Q. And is the material -- is the
materials
28 pertaining or the -- excuse me. The key point

153

1 pertaining to secondhand smoke is that new
mothers
2 ought not to smoke in the presence of their
babies?
3 A. That would probably be a key point
in the
4 materials as well.
5 Q. For example, this next item called
6 Healthy Generations Healthy Learners is a
two-page
7 brochure. Page beginning what every parent
should
8 know "Can secondhand smoke affect the fetus?"
And
9 then there's a point after that. Is that the
point
10 you're describing?
11 A. Yes. As well as once the child has
been
12 born.
13 Q. Just for the record, would you mind
14 reading that question and answer into the record?
15 A. Sure. Question says: "Can
secondhand
16 smoke affect the fetus?" Answer says: "There is
17 clear evidence that pregnant women who are around
18 secondhand smoke do have more complications
during
19 their pregnancy. There is no information about
20 secondhand marijuana or crack cocaine smoke. But
the
21 best advice would be to avoid being around anyone
22 using these drugs."
23 Q. Are the teen parenting education
programs
24 operated by the school districts? I'm sorry to
25 belabor this.
26 A. I'm really not sure. I don't know
how
27 much the county is involved, the County Education
28 Office would be involved or how much the
districts or

154

1 if any of them past or present are operated by
2 community-based organizations. I just don't work
with
3 those programs.
4 Q. Do you happen to know whether those
5 programs are still in existence?
6 A. Yes. We have teen parenting
programs in
7 the county. I know that the one at Lompoc is at
Maple
8 High School which is on the campus of Maple High
9 School which is the continuation campus.
10 Q. And as far as you know, is tobacco
11 prevention education still -- still a part of the
12 subject matter of the teen parenting education
13 program?
14 A. From the materials that we got from

15 Cheryl Raney, I would assume that that would be
true.
16 However, I just don't work with those programs
nor
17 have any contact with what they do.
18 Q. I'd like to show you Exhibit 197
which is
19 a document Healthy Generations Healthy Learners
titled
20 "Francisco Loves Estella." Ask you if you can
21 identify that document.
22 A. Yes. This was part of the Healthy
23 Generations Healthy Learners materials that were
made
24 available to districts. And this was a specific
25 curriculum for high school students.
26 Q. Was this specific curriculum used in
high
27 schools in Santa Barbara County to your
knowledge?
28 A. Again, I don't know. We did
trainings on

155

1 them. I don't know who used them and who didn't.
2 Q. When were the trainings on this
material
3 done?
4 A. This is part of the Healthy
Generations
5 Healthy Learners materials that I mentioned with
6 the -- when we talked about the resource.
7 Q. So these trainings were done in
1993,
8 1994, 1995 time frame?
9 A. Somewhere in there, yes.
10 Q. And Exhibit Number 198 is another
Healthy
11 Generations Healthy Learners document called
"High
12 School Curriculum." Is this another curriculum
that
13 was the subject of trainings that you conducted
in the
14 1993 through 1995 time frame?
15 A. That's correct.
16 Q. Do you know whether Exhibit Number
198
17 was used or has been used in Santa Barbara County
18 public high schools?
19 A. No, I don't.
20 Q. Exhibit 199 is another document
called
21 "Healthy Generation Healthy Learners, a Prenatal
22 Substance Use Prevention Education Program
Resource
23 Guide, 1993." And I'll ask you to identify this
--
24 well, the exhibit also appears to contain some
other
25 materials. And I'd like to ask you to take a
look

the 26 through the whole exhibit and ask you to identify
27 materials that are contained in it.
28 A. All right. This is a copy of my own

156

trained 1 resource notebook that I received when they
Healthy 2 county coordinators about Healthy Generations
the 3 Learners so that we could help facilitate getting
4 other program information out to the districts.

5 Q. So these materials are ones that you
6 received from the state?

7 A. Well, they come through -- yes, from
8 California Department of Education. And we were
9 probably to my recollection trained through the

Region

10 8 Healthy Kids Center at that time.

11 Q. When did this training occur?

12 A. Well, it says 1993 on the resource
guide 13 here. So I would imagine we were trained in
1993. 14 Best of my recollection.

15 Q. And were you trained in your role as

TUPE

16 coordinator for this county?

17 A. As Drug-Free School and TUPE. We
were 18 given these materials. And then there was

additional

19 time that I served as the person in Santa Barbara
20 County for the Regional Center to get these

materials

21 out.

22 Q. I'll show you that one of the --

these

23 materials that also contain at least one resource
24 material on the dangers of secondhand smoke. Is

that

25 correct?

26 A. Yes. These materials were from the

March

27 of Dimes that are included.

28 Q. And this is the page that --

157

Stop 1 A. "Give Your Baby a Healthy Start.
2 Smoking."

3 Q. Okay. Thank you.

4 MR. LERNER: Off the record.

5 (Discussion off the record.)

6 MR. LERNER: I'll note for the record that

the

7 page the witness just identified as the March of

Dime

8 materials pertaining to secondhand smoke has been
9 marked separately as Exhibit 199A and will be

placed

10 at the end of the Exhibit 199.

11 MR. L'ORANGE: Off the record.

12 (Recess.)

13 (At this time Mr. L'Orange

14 exited the deposition room.)

15 MR. LERNER: Let's go back on the record.

16 Q. Now, with regard to budgeting, do

you

17 have any information concerning the budget for
18 your program for fiscal year that will begin July
19 1?

20 A. I received an e-mail from Marian

Gage who

21 is one of the other county coordinators. And she

had

22 talked to California Department of Education Ruth

23 Bowman who earlier when I couldn't remember her

name I

24 said Ruth Bowen. It's Bowman. And she told us

to use

25 for projection purposes for 2000, 2001 for

Tobacco Use

26 Prevention Education, TUPE, \$3 per ADA for Grades

4

27 through 8.

28 And that would be based on the

October

158

1 1999 CBEDS which is a attendance report that the
2 districts file annually. And Drug-Free Schools

at \$4

3 per student, ADA, grades K-12. Those can't be
4 confirmed until after the budget process is

complete

5 at the both federal and state level. But that's

what

6 we've been told we can project.

7 Q. Well, based on those projections, do

you

8 understand that there would be a total of \$7

available

9 for the TUPE Program and the Safe and Drug-Free
10 Schools Program per ADA for Grades 4 through 8?

11 A. For those school districts that take

both

12 programs. There are some that do not.

13 (At this time Mr. L'Orange

14 reentered the deposition room.)

15 BY MR. LERNER:

16 Q. I'm handing you Exhibits 200A and

200B

17 copies of which are copies of what appears to be

a

18 fifth grade teaching guide for the Smoke-Free

Class of

19 2000 and -- and an audiotape called "The Price is
20 Life." Ask if you can identify these materials.

21 A. Yes, I can. They're part of the
22 Smoke-Free Class of 2000 curriculums that is a
23 combination of the American Health, Lung and

Cancer

24 Societies.

25 Q. You mean they were developed by

those

26 groups?

27 A. That's correct.

28 Q. And what is this particular

curriculum

159

1 which is Exhibit 200?

2 A. This particular packet is a fifth

grade

3 packet.

4 Q. And have you used these materials in

the

5 course of your work as the TUPE coordinator?

6 A. I have not used it myself in the

7 classroom, but I have given it to the fifth grade

8 teachers at Cuyama and at Los Olivos as

supplemental

9 materials; and I have also made it available --

10 packets available at our county advisory

committee and

11 to districts who have wanted them.

12 And I didn't keep any kind of

records of

13 which districts took them, but I still have some

14 available. So we had a quantity of them.

15 Q. To your knowledge, is the Smoke-Free

16 Class of 2000 curriculum used in any schools in

Santa

17 Barbara -- any public schools in Santa Barbara

County?

18 A. These were handed out roughly -- I'm

so

19 bad at dates -- '97, '98 -- somewhere in that

20 neighborhood -- as they became available to us.

I'm

21 looking for a date. Let's see. It says 1992 on

the

22 fifth grade. Fourth and fifth grade appeared to

be

23 older packets. I became aware of this curriculum

when

24 they developed the sixth, seventh and eighth that

25 included some videos and some student activism

type of

26 lessons.

27 And they still had these older Grade

4

28 and Grade 5 packets which I took and handed out

at

160

1 that time as well.

2 Q. So to your knowledge are any

teachers

3 using these materials in Santa Barbara County

public

4 schools? That is, by these materials, I mean

5 Smoke-Free Class of 2000 curriculums.
6 A. Right. Several districts have been
given
7 these materials. I don't know which individual
8 teachers may or may not be using them.
9 Q. And have you listened to the tape
"The
10 Price is Life"?
11 A. No. I have not personally used
Grade 4
12 or Grade 5. But I have used six, seven and
eight.
13 Q. Okay. I'll ask you to identify,
then,
14 Exhibit 201 as the fourth grade teaching guide
for
15 Smoke-Free Class of 2000. Is that correct?
16 A. Yes. And as I mentioned, this is
another
17 one of the older packets that they had left over
when
18 I bought some of the newer curriculums. This one
says
19 1991 on it. So I did not see this until '90 --
20 whenever I said -- 6 or '7 or '8, in there, when
I got
21 the newer curriculums.
22 Q. Now, are you familiar with the --
23 generally speaking with the contents of the
fourth
24 grade curriculum, whatever the particular
materials
25 that are being used?
26 A. I generally --
27 Q. Go ahead.
28 A. I generally look through things.
But I

161

1 have not used this particular fourth grade
curriculum.
2 So I'm not familiar with the lessons in that one.
3 Just enough to know that it was a good resource.
4 Q. At page 21 of Exhibit 201, there's a
5 heading called "Secondhand Smoke" --
6 A. Yes.
7 Q. -- which I assume is part of the
teacher
8 guide for this particular --
9 A. Yes.
10 Q. -- curriculum. And is it -- and
this
11 particular guide I know is dated --
12 A. 1991.
13 Q. 1991, correct. Has information
14 concerning secondhand smoke in your experience
15 typically been part of the fourth grade
curriculum
16 since 1991?
17 A. I would have no way of knowing that.
18 Q. Based on the curriculums which you
have

19 experience with.
20 A. We have identified the first major
one
21 that was involved with was the notebook from the
22 California Department of Education. And I
believe
23 that was 1992. And so that was the first major
24 resource that we had available other than the big
25 curriculums which some districts were using that
did
26 include some pages on ETS.
27 Where the Lung, Heart and Cancer
Society
28 distributed these in '91, I would have no idea
because

162

1 I didn't know they were available.
2 Q. Exhibit 202 is a one-page document
called
3 "Advertising: How Does it Rate? Student Survey
4 Sheet." I'd ask you to identify this document,
5 please.
6 A. This was part of a -- actually, I
don't
7 know exactly what to call it. But this was made
8 available to districts last year, 1998, '99
school
9 year.
10 Q. By whom?
11 A. Well, our contact was the California
12 Department of Education. But my guess is that
they
13 were working with the media campaign through
Health
14 Services because this is based on the tobacco
spots
15 that are done as part of the statewide media
campaign.
16 Q. So are you familiar with the tobacco
17 spots in the statewide media campaign?
18 A. Yes, I am.
19 Q. And how did you become familiar with
20 those particular spots?
21 A. As coordinator, I received sampling
of
22 some of the media spots from the California
Department
23 of Health Services and --
24 Q. And that's the -- you're referring
to the
25 document and the tape which have been marked
26 Defendants' Exhibit 214A and 214B?
27 A. Correct. I also received a copy of
some
28 of the media spots through the Santa Barbara
County

163

1 Tobacco Education Office Public Health. Both of
these

2 tapes were --
3 Q. Excuse me. And that's the document
4 that's been marked -- or the video that's been
marked
5 Exhibit 215, "Tobacco Media Spots"?
6 A. Correct.
7 Q. Okay. When did you receive Exhibit
215,
8 that video from the Santa Barbara County
Department of
9 Public Health?
10 A. It doesn't have a date on it, but
it's
11 one of the older ones. So I would think it was
12 probably between '92 and '94. It's been around
for a
13 while.
14 Q. When did you receive Exhibits 214A
and
15 214B which is the tobacco media campaign spots
where
16 they came from the California Department of
Health
17 Services?
18 A. Again, there's no date on there.
But
19 that is newer than the previous one that we just
20 mentioned.
21 Q. You received it more recently?
22 A. It was probably in the '95, '96-ish
time
23 frame. Sorry I can't be more specific. It's
just
24 newer. That's all.
25 Q. And you have reviewed both of these
26 videos, that is, Exhibits 214B and Exhibit 215
27 yourself?
28 A. Yes.

164

1 Q. And have you shown these -- either
of
2 these videos as part of the trainings you
conducted?
3 A. Yes.
4 Q. Is it typically one of the items
that you
5 include in your trainings?
6 A. Not currently. But at the time we
7 received them, we -- we used them quite a bit at
8 meetings, trainings. Sometimes we would have --
turn
9 them on and have them playing as people came into
a
10 training. I personally used them in the
classroom
11 with students. I don't remember which years or
how
12 many times. But they're -- they're good
materials.
13 Q. And what grades have you used these
14 videos in?

15 A. When I do anything about tobacco, I
do
16 Grades 4 through 8. So it would have been in
some --
17 some combination of Grades 4 through 8.
18 Q. And do you recall what years or --
for
19 how many years you showed these videos in the
20 classroom?
21 A. No.
22 Q. Was it more than one?
23 A. I just used them in different
24 combinations at different times. I really don't
25 remember what times or what grades.
26 Q. Now, how did the -- now, the spots
that
27 are shown in the videos are among the spots that
are
28 identified on Exhibit 202; is that correct?

165

1 A. There's another video which I don't
have
2 a copy of currently. It's -- I loaned it to a
school
3 district and they lost it. So I had one copy of
the
4 video that accompanied this student survey sheet
which
5 as I previously mentioned came out in the '98,
'99
6 school year.
7 And schools districts were notified
that
8 they could order these media tapes and student
survey
9 to get -- survey was to be conducted to get
10 information about which of the commercials the
11 students felt were most effective and what they
12 learned from each of the ads.
13 So some districts in Santa Barbara
County
14 responded. And they would get a packet of a
videotape
15 and the sheets for the students in the classroom
to
16 respond to the videos. And my part in that was
for
17 those districts that requested it, I -- I was
sent the
18 videos and the sheets; and I got those out to
those
19 districts. And they distributed it to the
classroom.
20 And then the classrooms were asked
to
21 return them to me, and I forwarded them back to
22 Sacramento. Not all classrooms returned their
sheets.
23 The same number did not return as went out. But
my
24 office did collect what was returned and passed

them

25 on to Sacramento.

26 Q. And when were the survey sheets
returned

27 by your office to Sacramento?

28 A. Probably late last spring.

166

1 Q. Now, Exhibit 202 is an example of a
2 survey sheet that was used as part of that
process; is
3 that correct?

4 A. That's correct.

5 Q. And these survey sheets came in the
form
6 of a tablet?

7 A. Correct.

8 Q. So that a survey sheet would be torn
off
9 and handed to a student who would fill it in?

10 A. Correct.

11 Q. Do you know what grades participated
in
12 this survey?

13 A. I believe it was junior and senior
high
14 schools.

15 Q. Did you receive any information as
to the
16 results of the survey in Santa Barbara County?

17 A. No.

18 Q. Did you receive any information as
to the
19 results of the survey in other locations?

20 A. No.

21 Q. Did you receive any information as
to the
22 results of the survey on a statewide basis?

23 A. No.

24 Q. Have you heard anything as to what
became
25 of the survey?

26 A. No. Actually, we haven't.

27 Q. To whom did you send the survey
materials
28 in Sacramento?

167

1 A. I really don't remember. There was
a
2 pre -- pre-printed label. And so my secretary
put it
3 on and sent them back. I don't remember.

4 Q. Do you recall whether the survey
5 materials came from the Tobacco Control Section?

6 A. You know, I'm not sure whether they
came
7 through the media people themselves or whether it
was
8 part of a project out of a university working
with

9 them. I mean I don't -- I don't remember the
specific 10 entity that did the -- the mailing, you know, who
it 11 was addressed to. And they came from a mailing
house 12 in L.A.
 13 And those were the only people that
I had 14 to have contact with because they sent me the
wrong 15 county's boxes.
 16 Q. By the media people themselves, who
do 17 you mean?
 18 A. The Health Services that does the
media 19 spots.
 20 Q. Okay. And have you had any -- when
you 21 say this came from L.A. and you had to return
some 22 boxes that were misaddressed to you, do you
recall to 23 whom you sent these things in L.A.?
 24 A. It was just one of the big mailing
 25 companies. No. Sorry.
 26 Q. Now, you mentioned that you had a
copy of 27 the video that accompanied the survey.
 28 A. Correct.

168

 1 Q. And that copy has been lost?
 2 A. Correct.
 3 Q. Do you happen to know whether other
of 4 copies of that video are still in the possession
 5 the various school districts to whom it was
 6 distributed or to which it was distributed in
Santa 7 Barbara County?
 8 A. I don't have any direct knowledge,
but I 9 would see no reason why they wouldn't be.
 10 Q. Were the videos returned to your
office 11 for return to Sacramento?
 12 A. No. They were theirs to keep for
 13 participating in this kind of marketing survey on
 14 effectiveness of the commercials.
 15 Q. Do you have any information as to
whether 16 those videos have been shown in any of the junior
or 17 senior high schools which received them at times
other 18 than in connection with the survey?
 19 A. Well, it was strictly up to the
districts 20 when they showed them. I mean there was no one
 21 particular, you know, day or time they were

supposed

22 to show them.

that

23 Q. Do you know whether the videos --

24 particular video is used as part of any tobacco
25 prevention education --

26 A. No.

27 Q. -- in --

28 A. I remember a couple of the districts

169

1 that sent surveys back. I'm pretty sure that I

saw

2 surveys from the Lompoc Unified School District,

from

3 the Buellton District. I saw some surveys from

Orcutt

4 I believe. And there were others that came back,

but

5 I just don't remember.

6 MR. LERNER: Okay. Off the record.

7 (Discussion off the record.)

8 BY MR. LERNER:

9 Q. Mrs. Waldau, you mentioned that this
10 advertising survey came from the state. It's

your

11 understanding that this was a statewide program?

12 A. We were -- all of the county

coordinators

13 for the County Education Office were given

information

14 to give to our districts to see if they wanted to

15 participate in this. And I believe this came

about

16 because at a Healthy Kids conference in '98 I

believe

17 there was interest in having videos -- these

media

18 spot videos.

19 And so many people requested them --

this

20 is my understanding. So many people requested a

media

21 spots video that was available that it seemed

like

22 they couldn't either fill the demand or I believe

23 there was something about there being actors who

were

24 paid actors in these videos.

25 Therefore, they couldn't be just

26 distributed freely I guess. So somewhere along

the

27 line, they made some kind of agreement that if

school

28 district children would give them marketing

feedback

170

1 back that a copy of the video could accompany.

And

2 again, that's -- that's the best of my

recollection of

3 how it came to be. But it was offered throughout
the 4 state.

5 MR. LERNER: Let's go off the record.

6 (Discussion off the record.)

7 BY MR. LERNER:

8 Q. I'd like to hand you Exhibits 203A
and 9 203B and ask you if you could identify that for
me, 10 please.

11 A. Yes. This is the sixth grade
activity 12 kit for -- what's the -- something 2000.

13 Q. Smoke-Free Class of 2000?

14 A. Smoke-Free Class of 2000, yes.

15 Q. Now, this was distributed by you as
a 16 resource material?

17 A. Yes. It was.

18 Q. Along with the ones for fourth and
fifth 19 grade?

20 A. Correct.

21 Q. Do you know whether this particular
22 curriculum for sixth grade is used in the Santa
23 Barbara County public schools at this time?

24 A. I have personally given it to the
25 teachers in Los Olivos and in Cuyama, and I have
used 26 it in both of those school districts in the year
that 27 I got it. I probably used it for two years.
28 Probably --

171

1 Q. For sixth graders?

2 A. -- '90 -- some of these I used
across 3 different grade levels because they -- I used it
for 4 sixth grade, but I also may have used it in
seventh 5 and eighth grade because some of the materials
are 6 very good.

7 Q. On page 9 of this teacher guide,
there's 8 a reference to "What about secondhand smoke?"

And was 9 that part of the curriculum that you used?

10 A. Let's see how many lessons there are
11 here. Generally when I taught the sixth grade
12 activity kit, I gave the whole kit to the teacher

to 13 use follow-up lessons. And I used the video and
--

14 Q. That's the video marked as 203B?

15 A. Correct. And -- and so I would ask
the 16 teachers to definitely, you know, continue using

the
17 material. But obviously in one class period, I
18 couldn't cover everything in the --
19 Q. Exhibit 205 -- I'm sorry. Exhibit
204 is
20 a copy of a booklet called "Teacher's Edition
Discover
21 Skills for Life." Could you please identify this
22 document.
23 A. This document was part of a resource
24 library that was housed with the Healthy Kids
Regional
25 Center, Region 8 Healthy Kids Center which was
located
26 in Ventura County Office of Education. And when
the
27 funding stopped for the centers, those of us
within
28 the region were told we could take some of the

172

1 resource materials; and so I picked that up
there.
2 I personally have not used or
promoted
3 this curriculum. But when the deposition asked
for
4 evidence of curriculums that had ETS in it, I
went
5 through all of my curriculums and found that
there
6 must be something in this one because I marked
it.
7 Q. Okay. Is this a curriculum that to
your
8 knowledge has been used anywhere?

9 A. I'm sure it's been used somewhere.
In
10 our county, I have no idea. But it was
considered to
11 be a resource for the region.
12 Q. Thanks. And Exhibit 205 is another
13 document called "Discover Skills for Life, Total
14 Teacher's Support System Level 5." Is this
another
15 material that came from the resource library at
the
16 Regional 8 Healthy Kids Center?

17 A. That's correct. It would be the
same
18 case. I believe the other one was a different
grade
19 level, the first one.
20 Q. And this was also a document that --
have
21 you made this document available as a resource?
22 A. No.
23 Q. So this exhibit and Exhibit 204 then
are
24 both items which are included in your record but
which
25 you've not used or distributed as resources to

26 teachers in your trainings?
27 A. Correct.
28 Q. Exhibit 206 is a document called

"Well

173

1 Into the Future From the Healthy Generations
Healthy 2 Learners Series." And I'm asking if you can
identify 3 that for us.
4 A. Yes, I can.
5 Q. Okay.
6 A. This was a -- a slide presentation
that 7 could be used to show parents or grandparents --
8 again, it was on the topic of prenatal substance
use 9 prevention education for the general population,
10 Grades 7 through 12. And it also had some
sensitivity 11 or some versions that could be used with the
Spanish 12 speaking population.

13 There was a Spanish version and one
that 14 was adapted for Native American populations.

15 Q. And you're referring to the page --
16 second page of the document which refers to --
17 A. Slide version included -- you could

order 18 slide version in those three --
19 Q. I see.
20 A. -- English, Spanish or Native

American. 21 Q. And Native American meant they were
22 different slides or the slides had different
content? 23 A. They tried to be culturally

sensitive to 24 the Native American population in terms of using
25 tobacco in ceremonial uses I believe is what the
26 intent was. I have not seen that curriculum.

And for 27 the Spanish, some things were written a little
bit 28 differently about family that fit more with their

174

1 values, not in terms of content so much as
approach 2 and respect and elders and -- culturally

sensitive. 3 Q. So that the slides -- slides are
depicted 4 in this particular document?
5 A. That's correct.

6 Q. At least I see slides -- what appear
to 7 be copies of slides --
8 A. Correct.

9 Q. -- that are in Spanish.
10 A. Okay.
11 Q. Is that correct? Have you used the
12 slides for this program?
13 A. I've used the slides in English.
14 Q. Have you seen the other slides for
15 Spanish or Native American persons -- speaking
16 persons?
17 A. No, I haven't. I haven't gone
through
18 those.
19 Q. And where did you use the English
slides?
20 A. I used the English slides in the
21 presentation on this resource at the Safe and
22 Drug-Free School and Tobacco Education and
advisory
23 committee meeting.
24 Q. And when did you do that?
25 A. Let's see. When did this become
26 available? This is one of the last pieces that
came
27 out. This says September 1993. So probably in
the
28 '94, '95 time frame. Between '93, '95.

175

1 Q. I'll show you Exhibit 207 which is
called
2 "Seventh and Eighth Grade Curriculum." Also part
of
3 the Healthy Generations Healthy Learners
materials.
4 What is that document?
5 A. Again, this is the grade specific
6 curriculum as part of Healthy Generations Healthy
7 Learners on prenatal substance use prevention
8 education. And this was part of the training
that we
9 did on this program.
10 Q. This document was used in the
trainings
11 that you conducted between 1993 and 1995
12 approximately?
13 A. That's correct.
14 THE WITNESS: Off the record for a moment.
15 MR. LERNER: Sure.
16 (Discussion off the record.)
17 MR. LERNER: Let's go back on the record.
18 Q. You pointed out that the portion of
19 Exhibit 207 called "Every Child a Learner,
Reducing
20 Risks of Learning Impairment During Pregnancy and
21 Infancy" is not part of the seventh and eighth
grade
22 curriculum but was separately provided at the
23 trainings which covered the seventh and eighth
grade
24 curriculum. Correct?
25 A. That's correct.
26 Q. Just place this portion on the
bottom of

27 the exhibit then. Now, the materials you brought
28 today or you provided concerning the Healthy

176

1 Generations Healthy Learners series -- and
correct me
2 if I'm wrong -- were all used by you during
trainings
3 during the 1994, '95 time frame; is that correct?
4 A. That's correct.
5 Q. And have these materials been
6 discontinued to your knowledge?
7 A. No. But since we lost the
coordination
8 of the Healthy Kids Regional Center when their
funding
9 went away and those centers disappeared, there
has
10 been nobody continuing to coordinate that
program.
11 Nor was there any funding other than some minimal
12 funding the first year for the highest risk
districts
13 to implement the program.
14 So it's just sort of -- I haven't
heard
15 anything.
16 Q. The program is dormant or has been
17 dormant since 1996?
18 A. There's -- see, there's no reporting
19 required on this -- there was no -- there was
nothing
20 that linked it back to Safe and Drug-Free Schools
21 Program or the Tobacco Use Prevention Education
22 Program in terms of any kind of compliance
reporting.
23 It was just a bill passed by the legislature that
24 stated that this should occur once in middle
school
25 and once in high school and then was not
supported
26 financially or administratively.
27 Q. So the Healthy Generations Healthy
28 Learners program has not been continued as part
of

177

1 your trainings since the funding lapsed?
2 A. It -- there was really no funding
for
3 that program. But the funding that supported the
4 Region 8 Healthy Kid Centers disappeared. That's
5 originally the avenue that the state used to
bring
6 these materials down to a local level.
7 Q. Have Healthy Generations Healthy
Learners
8 materials been published to your knowledge since
1995?
9 A. That was a one-time grant given to
10 Sacramento County of RFA I would assume, grant

given
And
that
Healthy
your
as
that.
other
Healthy
you've
education?
well,
Helpers,
for

11 to Sacramento County to develop those materials.
12 those were the only program specific materials
13 I'm aware of.
14 Q. Now, are the Healthy Generations
15 Learners materials that you distribute as part of
16 trainings in use anywhere in Santa Barbara County
17 far as you know?
18 A. I really have no information on
19 Q. So since 1995, then, you've used
20 materials in place of the Healthy Generation
21 Learner materials as a basis for the trainings
22 conducted concerning tobacco prevention
23 A. Correct.
24 Q. Exhibit 208 is a document called --
25 the cover page says "Altschul Group Corporation
26 Educational Media." I'll ask you if you can
27 identify -- the second page says "Natural
28 Third Edition, Mixed Media Peer Helping Program

178

1 Grades 6 through 12." What is that document?
2 A. This document is the contents of a
folder
3 that the AGC Educational Media Corporation
4 distributes.
5 Q. It's Altschul Group Corporation?
6 A. Correct. They distribute these when
they
7 come out and talk to districts about their
individual
8 curriculums that are included in this folder.
They
9 also send it to us when we have one of their
10 presenters come and make a presentation on either
11 their specific curriculum or a more general
12 presentation where they might talk about some of
these
13 curriculums.
14 So I have distributed these at
advisory
15 meetings and some of the trainings where we have
used
16 their -- one of their consultants.
17 Q. Now, Altschul Group Corporation is a
18 private corporation to your knowledge?
19 A. Correct.
20 Q. And they're an educational
publisher?

21 A. Yes.
22 Q. And they provide educational
materials
23 concerning, among other things, tobacco
prevention?
24 A. Correct.
25 Q. And one of the programs they publish
is
26 Get Real About Tobacco; is that correct?
27 A. Yes.
28 Q. And that's the program that you
earlier

179

1 described that you have been using in your
classes at
2 the Los Olivos and Cuyama Districts?
3 A. Yes. Part of their materials,
uh-huh.
4 Q. Now, you say they have consultants
who
5 come out and talk. What's -- what's the nature
of the
6 presentations that you've attended that have been
7 given by Altschul?
8 A. I have attended presentations by one
of
9 their -- or meetings. Sometimes they're just
meetings
10 with one or two people. They will have one of
their
11 representatives. I've been working throughout
the
12 last three years maybe with a man named Brian
Murphy
13 from their corporation. I know he has worked
with
14 several school districts in our county on some of
15 these curriculums as well as Here's Looking at
You
16 2000.
17 They also have consultants that come
out
18 and do trainings. And I contract with AGC to
have a
19 consultant come out and do a training. I have
used
20 from AGC a man by the name of Bob Patterson out
of --
21 out of the state of Washington for several
different
22 training sessions.
23 Q. What trainings has Mr. Patterson
24 conducted for you?
25 A. He's done a one-day Get Real About
26 Tobacco. He's done a one-day Get Real About
Violence.
27 He's done a Making Time for Prevention in the
'90s
28 based on this handout that's in this packet.

180

1 Q. That's in Exhibit 208?
2 A. Correct. I have contracted with him
3 to -- to work with -- one day with high school
4 students at Cuyama High School. We worked
together
5 one day with seventh and eighth grade students at
the
6 Blockman School District. And I have used him
this
7 past November in a training -- well, okay. Past
8 November in a symposium -- a drug, alcohol and
tobacco
9 symposium that he was one of the speakers and --
10 topic. What was the topic? Prevention? No. We
11 didn't use prevention.
12 He was one of four speakers in a
two-day
13 symposium for the teachers and community
organization
14 people and administrators were invited to
participate
15 in. And during that same time frame there was a
high
16 school training, and he was one of the four
speakers
17 for the high school groups that came. The
previous
18 year he did a couple of other trainings for me.
19 Q. Mr. Patterson is employed by
Altschul
20 Group Corporation?
21 A. I believe he's an independent
consultant,
22 and he contracts -- one of his contracts would be
with
23 them.
24 Q. Do you buy educational materials
from
25 Alts -- strike that. Does Altschul Group
Corporation
26 sell educational materials pertaining to tobacco
27 prevention education to any districts in Santa
Barbara
28 County?

181

1 A. Yes. I think some districts have
bought
2 Get Real About Tobacco.
3 Q. Do you know which ones?
4 A. I believe Santa Maria-Bonita bought
a
5 couple. And I believe that Orcutt bought a
couple.
6 But I'm not sure who else. I bought two for the
7 county office which I have communicated to
districts
8 that they're available to borrow.
9 Q. Have they been borrowed?
10 A. One sixth grade teacher in Los
Olivos

11 borrowed Get Real About Tobacco last spring. And
I do
12 not know whether she found the time to implement
it or
13 not.
14 Q. How long have you been -- when did
you
15 first attend any presentations by Mr. Murphy?
16 A. Like I say, I think I've been
working
17 with him for about three years.
18 Q. When you say Mr. Murphy has worked
with
19 several districts, what do you mean by that?
20 A. Districts who are interested in his
21 curriculums can borrow -- can get preview copies.
And
22 Brian Murphy would be their point of contact.
23 Q. So Mr. Murphy is the -- in effect
the
24 Altschul salesman who works with school
districts?
25 A. In this particular -- he's the one I
know
26 from -- that works with districts in Santa
Barbara
27 County.
28 Q. Okay. Let's digress for a moment
and ask

182

1 you to identify Exhibit 209 which is material
called
2 "Great American Smoke-Out Promotional Materials
3 Catalog 1996." Are you familiar with the Great
4 American Smoke-Out?
5 A. Yes, I am.
6 (At this time Mr. L'Orange
7 exited the deposition room.)
8 BY MR. LERNER:
9 Q. And that's a non-classroom based
activity
10 that is conducted in Santa Barbara County?
11 A. I'm the only contact I have with --
the
12 Smoke-Out is as a classroom based activity. We
13 generally receive materials from the American
Cancer
14 Society that we can make available as resources
for
15 districts and teachers that have some ideas what
to do
16 around the theme of the Great American Smoke-Out
or as
17 they -- as we're talking mainly about a
prevention
18 effort, they called it the Great American
Scream-Out.
19 Q. Okay. How is the Great American
20 Smoke-Out observed to your knowledge in Santa
Barbara
21 County public schools?

22 A. Usually it's observed on the day of
the
23 Smoke-Out. At the elementary and junior high
level,
24 it's mainly tobacco -- anti-tobacco awareness
type of
25 day. They might -- there were a couple of years
when
26 they tried to use the Scream-Out. And so at a
certain
27 time, all the kids went outside and screamed
their
28 lungs off at 10:00 o'clock in the morning or
whatever

183

1 it was.
2 And so we would have stickers and
3 bookmarks and --
4 Q. Generally speaking, what is the
Great
5 American Scream-Out?
6 A. Since most school children don't
smoke,
7 they obviously couldn't give up cigarettes for a
day
8 which is the community theme of the Great
American
9 Smoke-Out. So we made it more of an awareness,
10 prevention activity and gave them something that
they
11 could do. And that was open their mouths and
scream.
12 Q. So the kids go out at an appointed
hour

13 and just let out a scream?
14 A. Let it out.
15 Q. And is that -- now, for how many
years
16 has the Great American Scream-Out been an
activity --
17 an annual activity in the Santa Barbara County
public
18 schools?

19 A. I think it was kind of prevalent
like '96
20 through '98.

21 Q. Were tobacco awareness materials
22 distributed as part of the Great American
Scream-Out?

23 A. I tried to distribute -- not this
24 materials catalog, per se. But I would receive
25 teacher ideas and lesson -- lessons which I would
make
26 available through my usual channels at the
advisory
27 committee meeting and send out to districts,
district
28 coordinators for them to get out to their
schools.

184

the
Barbara
direct
do.
any
your
schools?
school
to the
209.
Out
a
could you
lung
a
209.
185
the
don't
So
is

1 Q. And to your knowledge was in fact
2 Great American Scream-Out observed in Santa
3 County public schools?
4 A. More than 50 percent. I have no
5 knowledge, but it was a fairly common thing to
6 Q. Have you distributed as resources
7 anti-tobacco posters?
8 A. Yes.
9 Q. And are such anti-tobacco posters to
10 knowledge posted in classrooms in any public
11 schools?
12 A. Yes. I've seen them in different
13 sites.
14 Q. Including any posters that pertain
15 risk of ETS?
16 A. Let's see.
17 Q. I'll refer you to page 12 of Exhibit
18 A. Oh. Get -- the 5740, Get Your Butt
19 of My Face poster?
20 Q. Yes.
21 A. Yes. I've distributed that. That's
22 popular poster with junior high kids.
23 Q. Okay. And just for the record,
24 read the caption under the title.
25 A. The "You don't have to smoke to get
26 cancer. Just be around someone who does"?
27 Q. Right. Right. Then could you take
28 look at the posters on page 13 also of Exhibit
29 And is Poster 5741 Get Your Butt Out of My Face,
30

1 African American woman also a poster that's in
2 schools?
3 A. I have not seen that one. And we
4 have a very large African American population.
5 I've not seen that one up anywhere.
6 Q. So the 5741 and 5742 --
7 A. Same poster.
8 Q. -- same poster as 5740 but just with
9 people of different ethnicities on the poster?
10 A. Right.
11 Q. And when was the Poster 5740 which

12 shown at page 12 of Exhibit 209 distributed?
13 A. Personally by me, I bought American
14 Cancer Society materials in 1997 and 1998. And I
15 would use them as giveaways at the various
meetings
16 and trainings and as door prizes whenever there
was
17 people gathered together and gave them out to
students
18 in classrooms as I had an opportunity to.
19 Q. Are there other posters pertaining
to the
20 dangers of secondhand smoke which have been
posted in
21 public school classrooms in Santa Barbara County?
22 (Brief interruption.)
23 THE WITNESS: Yes. I believe I brought
one
24 with me the last time. I don't know if it went
home
25 in the box. They're not -- there's not many --
there
26 are not many that I've seen. But there was one
with
27 some young children that came out more recently.
28 MR. LERNER: Let's go off the record.

186

1 (Discussion off the record.)
2 BY MR. LERNER:
3 Q. Could you please identify Exhibits
210A 4 and B which is a Smoke-Free Class of 2000 seventh
5 grade curriculum package and a video titled "Use
the
6 Facts. Exercise Your Power."
7 A. Yes. These Smoke-Free Class of 2000
8 materials, this is the seventh grade curriculum
9 package. What the general thrust of these
prevention
10 lessons are is that teens and youth can get
involved
11 in making changes. First of all, not smoking.
But
12 also in being part of the political process and
using
13 their power to communicate things to city
councils or
14 address issues.
15 Q. Now you've reviewed this video or --
in
16 the past?
17 A. Yes, I have.
18 Q. And this is the video where the
students
19 go to the Alabama legislature and petition for
20 tobacco-free premises or business premises?
21 A. Correct.
22 Q. Now, have you shown this video in
any
23 public school classes?
24 A. Yes, I have.

25 Q. For what grades?
26 (At this time Mr. L'Orange
27 reentered the deposition room.)
28 THE WITNESS: I would have shown this in

187

1 seventh or eighth grade. And I would have -- I
did
2 show it at the two schools that I work with: Los
3 Olivos and Cuyama. And I would have previewed
these
4 videos with the county advisory committee and
made
5 them available there.

6 BY MR. LERNER:

7 Q. When did the Smoke-Free Class of
2000
8 curriculum series begin to be used to your
knowledge?

9 A. Like I said earlier, I was only made
10 aware of them when these Grade 6, 7 and 8 packets

--
11 actually, I ordered these in 1997, '98 school
year.
12 And probably '90 -- in the fall of '90 -- in the
fall
13 of '97, fall of '98. Again, one of the -- one of
the
14 reasons, it depends on who is working locally at
the
15 American Cancer Society, who their executive
director
16 is and their interest in having a relationship
with
17 the schools.

18 So for a couple of years, we had a
person
19 who actively wanted to collaborate with getting
some
20 training out on these videos. So it was '97, '90
--
21 late '96 through '98 we had little more
cooperation
22 and activism on their part.

23 Q. Do you happen to know whether this
24 particular curriculum is used in any other public
25 schools in Santa Barbara County?

26 A. I know it's been distributed, but
I'm not
27 sure in which individual places it's used.

28 Q. Exhibit 211 is a document called
"Get

188

1 Real" -- I'm sorry. 211 is a multi-part exhibit.
2 Exhibit 211A is a document called "Get Real About
3 Tobacco Teachers Guide, Grades 6 through 9" --

4 A. Correct.

5 Q. -- "Middle School, Junior High
School."

6 A. Yes.

7 Q. 211B is a video called "Our Smoking
8 Video." 211C is a video called "Chain of Smoke."
9 And 211D is an audiotape called "Mrs. O'Keefe's
10 Trial."
11 A. Correct.
12 Q. Can you identify these documents for
us.
13 A. This curriculum became available to
us a
14 couple of years ago.
15 Q. This is also from the Altschul
Company?
16 A. Yes. It's also distributed through
CHEF,
17 Comprehensive Health Education Foundation.
18 Q. What is the Comprehensive Health
19 Education Foundation?
20 A. It's another curriculum company in
21 Seattle, Washington.
22 Q. So you see these materials from both
of
23 those places?
24 A. And so we made a day of training
25 available which was open to teachers, community
26 agency, whatever, by Bob Patterson on Get Real
About
27 Tobacco. And then I have taken the Get Real
About
28 Tobacco kits that I purchased to county advisory
189
1 committee and to other trainings when we tried to
set
2 out curriculum and let the people know they're
3 available to be borrowed.
4 Q. Have you used either of the videos
--
5 "Our Smoking Video" or "Chain of Smoke" -- in the
6 classroom?
7 A. I've used "Our Smoking Video"
several
8 times.
9 Q. For what grades?
10 A. Seventh and eighth.
11 Q. Have you used "Chain of Smoke"?
12 A. I think I may have used that like
once.
13 I like the other one better.
14 Q. Okay. And that's the --
15 A. "Our Smoking Video."
16 Q. That's the one about the two
students who
17 make a video concerning the dangers of smoking?
18 A. That's correct.
19 Q. That's also the video of which the
main
20 character who's a girl has an intimate
conversation
21 with her mother where the mother confesses her
regret
22 for having smoked in the presence of the girl
when she

23 was a child?
24 A. Correct.
25 Q. Okay. What's the theme of
26 "Mrs. O'Keefe's" -- what's the story line of
27 "Mrs. O'Keefe's Trial"?
28 A. I've not used "Mrs. O'Keefe's Trial"

out

190

1 of here. I find that audio tapes are just very
2 difficult to keep kids engaged.
3 Q. Have you played "Mrs. O'Keefe's
Trial" at
4 your training sessions?
5 A. No.
6 Q. So that's not something -- a
material you
7 found it convenient to use?
8 A. I listened to it myself when I first
got
9 the packet, and I really don't remember what it
was
10 about.
11 Q. Now, Get Real About Tobacco is a
12 curriculum that you're still currently using;
right?
13 A. That's correct.
14 Q. Now, the Lesson Number 3 in this
15 curriculum pertains to side-stream smoke; is that
16 correct?
17 A. Yes. It does.
18 Q. And have you taught that Lesson
Number 3?
19 A. Page 73? Let's see. No, I have
not.
20 That's where "Mrs. O'Keefe's Trial" comes in.
21 Q. So any information concerning
secondhand
22 smoke that may be dramatized for the students in
this
23 curriculum in the "Our Smoking Video" would be
the
24 information that your students would have
received
25 about secondhand smoke?
26 A. That, I can't -- you know, I can't
say
27 that they didn't receive any other information.
28 Obviously those people who own this curriculum or

191

1 borrow it can certainly choose any of the lessons
to
2 incorporate. In my one shots or two shots with
my two
3 small school districts, I have not done this
4 particular lesson.
5 Q. Exhibit 212A and 212B is another
6 curriculum called "Get Real About Tobacco,
Teachers
7 Guide Grades 4 through 6th, Upper Elementary

School."

8 212B is a video called "Not Just Blowing Smoke."

Are

9 these curriculum materials that you have used?

10 A. Yes. I have.

11 Q. For what grades?

12 A. Four, five and six.

13 Q. When did you begin using this

curriculum

14 found in Exhibit 212A and B?

15 A. I believe that we've had it

available

16 since 1997.

17 Q. And have you played the video for

18 students? I'm sorry. Yeah, the video.

19 A. "Not Just Blowing Smoke"? Or any of

the

20 videos? There's three videos in there. I've

21 definitely done "Getting the Message About

Tobacco"

22 and "Don't Even Try It." And I've done those

this

23 year. And I may have done "Not Just Blowing

Smoke" in

24 the previous year. I just can't place it in my

mind

25 at the moment.

26 MR. LERNER: Off the record.

27 (Discussion off the record.)

28 ///

192

1 BY MR. LERNER:

2 Q. Now, Exhibit 212B is the video "Not

Just

3 Blowing Smoke." That's one of three videos

that's

4 part of this Grade 4 to 6 curriculum; is that

right?

5 A. That's correct.

6 Q. And the other videos are "Don't Even

Try

7 It" and "Getting the Message About Tobacco." Is

that

8 correct?

9 A. That's correct.

10 Q. Now, you did not produce copies of

"Don't

11 Even Try It" or "Getting the Message About

Tobacco."

12 Is that correct?

13 A. That's correct.

14 Q. And that's because you have them in

the

15 box of curriculum materials you're currently

using at

16 home?

17 A. Yes.

18 MR. LERNER: All right. Off the record.

19 (Discussion off the record.)

20 BY MR. LERNER:

21 Q. The question is: Do the videos that

you
22 didn't produce -- "Not Just Blowing Smoke" -- I'm
23 sorry -- "Don't Even Try It" and "Getting the
Message
24 About Tobacco" -- contain information concerning
the
25 risks of ETS?
26 A. Before I answer that question, could
I
27 refer back to your previous question about the
lessons
28 that the tape "Not Just Blowing Smoke" pertain
to?

193

1 Q. Yeah. I'll try to clarify the
question.
2 I'm not sure which one you're referring to.
3 A. Okay. Okay. Hang on just one
second
4 then, and I'll answer that question. And then we
need
5 to go back to your other tape. In the lesson
that
6 they use the "Getting the Message About Tobacco"
which
7 is Lesson 3 "Messages About Tobacco" --
8 Q. And that's at page --
9 A. It is on page 71.
10 Q. Of Exhibit 212A?
11 A. Correct. The norms presented in
this
12 lesson, "It's a bad idea for children to smoke,
13 smoking is unattractive, chewing tobacco is
14 unattractive, people have a right not to inhale
15 others' smoke, people can't predict when they'll
16 become addicted to nicotine and perceiving
messages
17 critically helps people make good decisions."
18 So those are the norms that are
promoted
19 in that lesson and in that video. And I have
used
20 that particular lesson and video in Cuyama and in
Los
21 Olivos.
22 Q. It's the norm people have a right
not to
23 inhale other smoke is --
24 A. Embedded in all of these lessons.
25 Q. -- all of the lessons in this
curriculum;
26 is that correct?
27 A. Yes, that's correct. Which is a
part of
28 the CDC guidelines.

194

1 Q. So to return to the question: Is
there
2 any information in the video "Don't Even Try It"

that
3 pertains to secondhand smoke?
4 A. Since I wasn't watching the video
for a
5 specific subject, you know, I just can't -- I
can't
6 remember. There's so many different pieces they
try
7 to cram into those videos that cover all those
areas.
8 Q. All right. We won't test your
memory any
9 further on that.
10 A. On the lessons on that other video
you
11 mentioned, the one that you do have a copy of,
"Not
12 Just Blowing Smoke," I have distributed those
lessons
13 to the classes at Los Olivos and Cuyama. It's
14 Lesson 1 called "Changing Attitudes" which starts
on
15 page 27. And so I use that as a supplemental
handout,
16 not as a classroom lesson myself.
17 Q. Exhibit 213A is a document called
"Too
18 Smart to Start, Smoke-Free Class of 2000." And
19 Exhibit 213B is a video called "Too Smart to
Start.
20 Too Cool to Smoke." And are these also
curriculum
21 materials that you made available as resources?
22 A. That's correct. Those are again --
that
23 would be the eighth grade curriculum piece that
was in
24 the Heart, Lung, Cancer --
25 Q. Associations?
26 A. Uh-huh, curriculum.
27 Q. And have you used these curriculum
28 materials?

195

1 A. Yes. I've used them both in Cuyama
and
2 Los Olivos and previewed them at the advisory --
3 county advisory meeting and made them available.
I
4 did a joint training with the American Cancer
Society
5 representative, whose name I don't remember,
probably
6 in '97. And we had these Grade 4 through 8
materials
7 available depending on what grade a person was,
you
8 know, working with and received a copy of
whatever
9 grade they were working with.
10 Q. Now, when we began the deposition,
you

reports 11 briefly described that the process by which
12 are prepared and submitted to the Department of
13 Education concerning the TUPE Program.
14 A. Yes.
a 15 Q. And you mentioned that at some point
16 combined report was prepared that pertained to
TUPE as 17 well as to Safe and Drug-Free Schools Program?
18 A. Correct.
used 19 Q. And that combined report began to be
20 at what point in time?
21 A. The combined report was begun in the
'98, 22 '99 school year. The annual report for '98, '99.
23 Q. And prior to the '98, '99 annual
reports, 24 there were separate reports for the TUPE Program
and 25 for the Safe and Drug-Free Schools Program?
26 A. That's correct.
27 Q. I'm going to show you Exhibit 818
which 28 is a letter from the California Department of

196

1 Education dated June 25, 1999 to county and
district 2 coordinators for Tobacco Use Prevention Education
and 3 Safe and Drug-Free Schools Community Programs.
4 A. Yes. I have it.
5 Q. I ask you to -- is this a document
that 6 you received from the California Department of
7 Education?
8 A. That's correct. It's a cover letter
for 9 the annual report.
10 Q. Now, attached to this two-page cover
11 letter for the annual report is a two-page
document 12 called "Resources List." Can you identify the
13 resources list?
14 A. This is the first year that this
report 15 is -- they are trying to put the report on a
database. 16 And so they gave common curriculums which have
been 17 used throughout the past ten years or that they
feel 18 are currently in use so that they could come up
with a 19 code and help the evaluation team or researchers
put 20 this into the database.
21 So these are probably common titles
22 that -- that they see that they've put in this
group.

23 Q. When did you first hear that there
would
24 be a database of information created pertaining
to the
25 TUPE Program and the Safe and Drug-Free Schools
and
26 Communities Program?
27 A. I would think at our -- let's see.
That
28 was 1999. '98, '99 school -- I would think that
I

197

1 probably heard this at one of two meetings.
Either at
2 the county coordinators meeting for all the 54
3 counties or whatever we have in California.
4 Q. That's the TUPE coordinators
meeting?
5 A. It's Safe and Drug-Free Schools and
TUPE.
6 We have one in the fall in September or October,
and
7 we have one in January. And I would think that
we
8 heard this in the fall of or in January of '98.
Wait
9 a minute. Let's see.
10 Q. That would be January 1999 before
this
11 letter came out?
12 A. I'm trying to think. This is for
the
13 '98, '99 school year. We got this letter in
June.
14 And so we either saw this final -- we heard about
this
15 final report either in January of '99 or in the
fall
16 of '98 at one of those two meetings. That's
where we
17 get most of our information.
18 Q. And who provided information about
the
19 database that was going to be created at that
meeting?
20 A. At the meeting? I don't remember
whether
21 it was Jerry Kilbert, the manager of the Healthy
Kids
22 Program Office, or whether he had one of the
23 researchers actually tell us about it.
24 Q. Where did that meeting take place?
25 A. The one in the fall was -- well,
they
26 were both in Sacramento.
27 Q. At the Department of Education?
28 A. No. The one in January -- let's
see. In

198

1 January was at the convention center prior to the
2 annual Healthy Kids conference. And the one
before
3 that was at -- was at one of the government
buildings
4 but not the Department of Ed. that they got free
use
5 of. I can't think of the building.
6 Q. There's an annual Healthy Kids
conference
7 in January?
8 A. Yes.
9 Q. And who runs that conference?
10 A. Actually RDL Enterprises is the one
that
11 puts on the conference, actually is -- does all
the
12 promotion and all that kind of stuff. That's who
you
13 send your registration to. But there are several
--
14 this is kind of a general health conference. So
15 there's several associations which I don't belong
to
16 that sponsor parts of this conference.
17 So it's under the general health
18 umbrella. And obviously Safe and Drug-Free
Schools
19 and Tobacco Use Prevention Education is one of
the
20 pieces of that.
21 Q. Okay. Exhibit 819 is a document
called
22 "Alcohol, Tobacco, Other Drug and Violence
Programs in
23 California Schools: 1998/1999 Annual Report."
Is
24 this the form of the annual report for 1988, '99
25 fiscal year that you were just describing was the
26 combined report?
27 MR. L'ORANGE: '98.
28 THE WITNESS: '98, '99, yes.

199

1 MR. LERNER: Excuse me. Thank you.
2 THE WITNESS: That's correct.
3 BY MR. LERNER:
4 Q. Now, did you have a role in
obtaining
5 these reports from school districts in Santa
Barbara
6 County?
7 A. Districts are asked to fill these
out and
8 then --
9 Q. Was that your job?
10 A. No. This came with that cover
letter to
11 county and district coordinators from the
California
12 Department of Education in the June 25th, '99 --
13 Q. All right. I notice that at the

14 beginning of Exhibit 818 the letter begins:
"Health
15 and Safety Code Section 104450 requires all
county
16 offices of education and school districts that
receive
17 Tobacco Use Prevention Education, TUPE, funding
to
18 complete an annual report of their activities and
19 expenditures relating to the TUPE Program."
20 A. County --
21 Q. Did you complete this report on
behalf of
22 your office?
23 A. No. County offices of education can
also
24 run programs for students. In our county, the
25 Juvenile Court and Community Schools would be
such a
26 program under the county office. That sentence
does
27 not refer to the TUPE administrative funds that a
28 county office receives to help provide technical

200

1 assistance for this grant.
2 Q. Okay. So if any county offices
prepared
3 or filled in a report which was Exhibit 819, that
4 would have been done by the Juvenile Court or
5 Community Schools?
6 A. Correct.
7 Q. Did you receive copies of reports
for
8 1998, '99 from the Juvenile Court or from the --
and
9 Community Schools?
10 A. Not yet. We're still working on it.
11 Q. Okay. So those reports are still in
12 process I take it.
13 A. Yes.
14 Q. When were they due?
15 A. September 30th.
16 Q. 1999?
17 A. Correct.
18 Q. Why have they been held up? Do you
know?
19 A. Off the record.
20 MR. LERNER: Off the record.
21 (Discussion off the record.)
22 BY MR. LERNER:
23 Q. Now, Exhibit 820 is a group exhibit
24 beginning 820A through 820M which appear to be
reports
25 for the 1998, 1999 fiscal year from -- prepared
by
26 different school districts in Santa Barbara
County.
27 A. That's correct.
28 Q. Can you confirm that?

201

1 A. Yes.
2 Q. Okay. So let's take as an example
3 Exhibit 820A and make sure that we understand the
4 contents of the report. Now, on whose behalf has
this
5 report been submitted?
6 A. This is a report that was done by
the
7 Santa Barbara school districts which includes --
they
8 consider themselves a collaborative group that
9 includes the Santa Barbara High School District
and
10 the Santa Barbara Elementary District.
11 Q. So this report was done for Grades 4
12 through 8 for the TUPE Program and 8 through 12
for
13 the Safe and Drug-Free Schools Program?
14 A. Correct.
15 Q. Now, were all these reports copies
of the
16 reports that were provided to you?
17 A. No. The report is directly sent to
18 California Department of Education. And they are
19 requested to send me a copy.
20 Q. So your understanding is these are
copies
21 of the reports provided by the various districts
to
22 the Department of Education?
23 A. Correct.
24 Q. And as far as you know, these were
25 received by you in the regular course of business
as
26 part of your work as the TUPE coordinator?
27 A. Correct. And Safe and Drug-Free
Schools.
28 Q. And you received these reports at

202

--
1 approximately October 1, 1999 at the end of the
2 when the reports were due?
3 A. I received these reports probably
the
4 majority of them within a month of that time.
Some
5 later.
6 Q. And was it your practice to review
the
7 reports after you received them?
8 A. I read through them. But since they
now
9 go directly to Sacramento, I don't have any
review
10 duties. They're available to me to use to help
11 provide technical assistance to districts, have
an
12 idea what's going on in their programs.
13 Q. Now, if we could refer to page 6
where

the 14 Question 7 begins. And this question asks for
15 predominant classroom based prevention resources.
16 What does that mean?
the 17 A. That list of resources that was with
18 cover letter, they're asking you to -- to
determine 19 what the majority of your information a
predominant 20 resource that you used in the classroom. I mean
most 21 teachers I believe use a combination of
resources, 22 things that they have found that they feel are
good 23 from different curriculums rather than just
sticking 24 with one curriculum.
Santa 25 Q. So if we refer to page 8 of the
"Classroom 26 Barbara report, there's a category called
27 Based Major Resource Number 2."
28 A. Correct.

203

1 Q. And it says the box "Externally
2 Developed" is checked. And then it says
"American 3 Lung" in the name line. And then the code "See
4 Attached List" is Number 2. And that refers,
does it 5 not, to Item 2 on Exhibit 818, the resources list
on 6 Exhibit 818?
7 A. Correct, yes, it does.
8 Q. And Item Number 2 would be any
American 9 Heart, Lung or Cancer resource?
10 A. Right.
11 Q. And by the same token, Great Body
Shop, 12 which is listed on page 9, given Code Number 15
refers 13 to the Item 15 on the resources list, Great Body
Shop 14 ETR?
15 A. Correct.
16 Q. And what is Great Body Shop ETR?
17 A. I believe Great Body Shop is more of
a 18 comprehensive health curriculum that would
include 19 drugs, alcohol and tobacco in it.
20 Q. So this page 9, then, shows that
Great 21 Body Shop curriculum was used for grades K
through 22 six?
23 A. Correct.
24 Q. And it shows that Question 8 then

gives
based 25 the number of students which received classroom
26 tobacco instruction in 1998, 1999 --
27 A. Correct.
28 Q. -- as 10,000 plus?

204

1 A. Correct.
2 Q. Can you identify Exhibit 821,
please.
3 A. This would be the cover letter for
the
4 annual TUPE report for the school year '97, '98
for
5 Grades 4 through 8.
6 Q. And this exhibit contains a blank
form of
7 TUPE report for that year?
8 A. Correct.
9 Q. Just referring again to the '98, '99
10 reporting period, are you aware of any
information
11 that's been compiled for the database that was
12 mentioned in Exhibit 818?
13 A. No, I'm not.
14 Q. So you've not received any
information --
15 A. No.
16 Q. -- concerning the results of the
coding?
17 A. No. I know that not all reports are
in.
18 So I would not expect to see anything yet.
19 Q. Were you informed at the conference
where
20 you first heard about the database that you would
be
21 provided with information concerning the -- the
data?
22 A. I think they talked about their
interest
23 in being able to have it as a resource sort of
like
24 the dissemination center in Los Angeles where we
could
25 find out -- if you were interested in a
curriculum,
26 you could find out districts that were using it
and
27 maybe call them up and see what their experience
or
28 whatever.

205

1 Q. Okay. Now, the form of report that
was
2 used for '97, '98 only concerned the TUPE
Program; is
3 that correct?
4 A. Yes. It was a separate form for

5 Drug-Free Schools.
6 Q. Do you have copies of the forms that
were
7 prepared for Drug-Free Schools Program for '97,
'98?
8 A. I didn't run across them the other
day.
9 So I'm sure I have copies. I'm just not sure
what box
10 they got into.
11 Q. Now, you had a role in approving
TUPE
12 reports by the district at some point; is that
13 correct?
14 A. For some early years we were the
first
15 people to receive the reports. And so we had
both
16 more a role in the application process and in the
17 report process when it came to us first.
18 Q. So you received Exhibit 822 or
copies of
19 the reports which are Exhibit 822 as for your
20 information when the reports were submitted to
the
21 state?
22 A. Correct.
23 Q. And that was as part of your role as
--
24 you received them in your role as TUPE
coordinator?
25 A. Correct.
26 Q. And did you review these reports at
the
27 time you received them?
28 A. I read them when I got them, yes.

206

1 Q. And did this give you information
you
2 were able to use in your further work as TUPE
3 coordinator?
4 A. Yes.
5 Q. And these reports would also give
some
6 information concerning the nature of the
curriculum
7 that was being provided in the schools with
respect to
8 tobacco prevention education?
9 A. Correct.
10 Q. As well as the number of students
and
11 parents who may have been or community members
who may
12 have received information concerning tobacco
13 prevention?
14 A. Correct.
15 Q. Okay. Just referring again to the
1998,
16 '99 annual report for Santa Barbara which is
Exhibit

17 820A, I notice that Question 10 addresses
predominant
18 non-classroom based prevention activities which
are
19 defined as any -- on page 10 as any activity or
20 resource utilized primarily outside the classroom
21 setting.
22 And I notice one of the
non-classroom
23 resources and activities that we've already
discussed
24 is the Great American Smoke-Out/Smokescream which
you
25 described as an annual activity in the schools.
26 A. Correct.
27 Q. What is Friday Nite Live?
28 A. Friday Nite Live is a statewide
program

207

1 through the ADP, Alcohol and Drug Program, at the
2 state level that is basically a drug, alcohol
3 prevention, positive alternative program. It can
be
4 like a little club type of thing. They can meet
at
5 lunch or after school. They might do some
community
6 service projects together. Do, you know, a drug
and
7 alcohol-free dance, participate in Red Ribbon
Week.
8 Q. What is Red Ribbon Week?
9 A. Red Ribbon Week is the annual
celebration
10 started about ten years ago that -- nationwide
that
11 commemorates the loss of the life of one of our
drug
12 enforcement agents in Mexico and has become a
standard
13 anti-drug and alcohol rallying fall celebration.
But
14 we do consider it to be a year-round event as
well
15 because it's obviously a community norm.
16 Q. Does it have a tobacco --
17 A. Component.
18 Q. -- component?
19 A. Yes, it does.
20 Q. Now, I see that on the form there's
a box
21 which is under the column called "Focus." And if
the
22 tobacco box is checked, that would mean that
tobacco
23 prevention or control is a subject of the
24 non-classroom resource or activity that's
indicated?
25 A. What page are you on?
26 Q. I'm on page 10.
27 A. 10?

28 Q. And page 11.

208

1 A. Yes.

2 Q. What is Yellow Ribbon Week?

3 A. Yellow Ribbon is an anti-violence
week.

4 Q. What's the anti-tobacco component of
5 Yellow Ribbon Week?

6 A. I don't really believe there is one.
7 Actually, it might be maybe -- in their mind, the
8 connection might be Safe Schools would also be
9 tobacco-free schools.

10 Q. Okay.

11 A. We only have a few minutes left.

12 Q. Now, the last page of the form of
report
13 for 1997, '98 is a fiscal report?

14 A. Yes.

15 Q. And what is the fiscal report in
16 Exhibit 822 ordinarily -- or what does that show?

17 A. It shows what that year's
entitlement
18 amount was. And it shows an augmentation. And
I'm --
19 that's -- the augmentations are hard to explain.

And
20 for a real definite explanation, you need to ask
CDE.

21 Q. What do you understand it to be?

22 A. What I understand it to be is that
there
23 are certain deadlines prescribed in law where
funds
24 have to be used by a certain deadline. And so a
'98
25 augmentation would have been funds that they
received
26 in June of 1998 that are meant to be part of the
--

27 Q. Entitlement?

28 A. -- the next year's entitlement. And
this

209

1 comes about because we fund on a statewide level
2 competitive grants for Grades 9 through 12 in
some
3 years and not in others. Or there's a greater
amount
4 of applicants in one year than another. So that
5 leaves some left over. And so it's kind of
applied to
6 the next entitlement.

7 Q. Okay.

8 A. It drives fiscal offices nuts.

9 Q. And I'd like you to please identify
10 Exhibit 823 which is a letter on Santa Barbara
School

11 District's letterhead dated November 17, 1998.

12 A. In the application process in 1998,

there
13 was a budget detail sheet. And this looks like a
14 person -- Safe Schools person from Sacramento
15 requested more detail on one of the line item
budgets
16 as to how the funding was divided and in more
detail.
17 Q. A copy of this letter was sent to
you as
18 TUPE coordinator?
19 A. Correct.
20 MR. LERNER: Let's go off the record for a
21 minute.
22 (Discussion off the record.)
23 MR. LERNER: Let's go back on the record.
24 Q. Mrs. Waldau, earlier you referred to
the
25 Tobacco Education Office of the Department of
Public
26 Health. And whose office are you referring to?
27 A. I'm referring to the office that
Dawn
28 Dunn is director, coordinator, whatever her title
is,
210
1 at the County Health Services office.
2 Q. Okay. And Exhibit 824 is a Tobacco
Use
3 Prevention Program Administrative Funds 1996, '97
4 Annual Report. Can you identify that document,
5 please.
6 A. Yes. This would be the kind of
report --
7 the report that my fiscal office at Santa Barbara
8 County Education Office completes based on the
funds
9 that I have in my budgets to provide technical
10 assistance and --
11 Q. There was a report prepared for
1998,
12 '99?
13 A. Yes. There are -- there is.
14 Q. Okay. So the next one will be due
for
15 the year 1999, 2000?
16 A. Correct.
17 Q. And that would be not due until --
18 A. Next fall.
19 Q. -- next fall?
20 MR. LERNER: And we can go off the record.
21 (Discussion off the record.)
22 MR. LERNER: Let's go on the record.
Thank you
23 very much for your time and attention. We
appreciate
24 having you as a witness.
25 THE WITNESS: Thank you very much.
26 (The deposition concluded at 12:00 p.m.)
27
28

1 DEPONENT'S DECLARATION
2 STATE OF CALIFORNIA,)
)
3 COUNTY OF SANTA BARBARA.)
4
5 I, LORRAINE WALDAU, hereby declare:
6 I have read the foregoing deposition
transcript
7 and identify it as my own and approve same.
8 I declare under penalty of perjury under
the
9 laws of the State of California that the
foregoing
10 testimony is true and correct.
11 Dated this ____ day of _____, 2000,
12 at _____, California.
13
14

15 LORRAINE WALDAU
16
17
18
19
20
21
22
23
24
25
26
27
28

1 REPORTER'S CERTIFICATE
2 STATE OF CALIFORNIA,)
) SS.
3 COUNTY OF VENTURA.)
4
5 I, MARTHA A. ADAMS, CSR 10345, a Certified
6 Shorthand Reporter for the State of California,
hereby
7 certify:
8 That prior to being examined, the witness
named
9 in the foregoing deposition, to wit, LORRAINE
WALDAU,
10 was by me duly sworn to testify the truth, the
whole
11 truth, and nothing but the truth;
12 That the deposition of the witness in this
13 proceeding was taken down by me in stenotype at
the
14 time and place therein named and thereafter
reduced to
15 typewriting by computer-aided transcription under
my

16 direction.
17 I further certify that I am not interested
in
18 the event of the action.
19
20 WITNESS my hand this _____ day of
_____,
21 2000, at Camarillo, California.
22

Reporter
23
24
25
26
27
28
Certified Shorthand
State of California
CSR No. 10345, RPR